IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.A.ABDUL GAFOOR
&
THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

MONDAY, THE 27TH NOVEMBER 2006 / 6TH AGRAHAYANA 1928

WP(C).No. 31416 of 2006(M)

{IN I.A.NO.1266/2006 IN R.C.P.NO.1/2002
OF THE MUNSIFF'S COURT, ATTINGAL }
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PETITIONERS:
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1. JAGADEESWARAN, SREEVILASOM,
THOTTAKKADU P.O.MANABOOR VILLAGE,
THIRUVANANTHAPURAM DISTRICT.

2. CHITHRA, SREEVILASOM,
THOTTAKKADU P.O.MANABOOR VILLAGE,
THIRUVANANTHAPURAM DISTRICT.

REPRESENTED BY THEIR POWER OF ATTORNEY
ROOPKUMAR, SUPRAKASH, KILIKOLLOOR, KOLLAM.

BY ADV. SRI.M.R.RAJESH
SMT.A.K.PREETHA
SMT.BINDHYA JOSE

RESPONDENTS:
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1. PONNAMMA, D/O.KALYANI, THULASI MANDIRAM,
PURAVOOR, CHITTATTINKARA DESOM,
KOONDALLOOR VILLAGE.

2. V.VINDODKUMAR, S/O.MADHAVAN PILLAI,
THULASI MANDIRAM, PURAVOOR,
CHITTATTINKARA DESOM,
KOONDALLOOR VILLAGE.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 27/11/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.A.ABDUL GAFOOR &
K.R.UDAYABHANU, JJ.

W.P.(C).No.31416 of 2006 M

Dated this the 27th day of November, 2006.

JUDGMENT

Abdul Gafoor, J.

The landlord in a Rent Control Petition died. Two among his legal representatives, who claimed the tenanted premises on the strength of a Will, sought impleadment. That was objected to on the ground that they did not have the right to prosecute the Rent Control Petition because of the bar in the 3rd proviso to Section 11 (3) of the Kerala Buildings (Lease and Rent Control) Act [Act 2 of 1965] {hereinafter referred to as 'the Act'}.

2. For the purpose of impleadment of certain parties on the basis of the title claimed, the contention centered around the 3rd proviso is not a relevant aspect. That

arises for consideration only when the application is to be contested. Therefore, we cannot say that the impleadment ordered as per Ext.P4 is in any way vitiated. But, we make it clear that by reason of Ext.P4 order or its confirmation by us in this judgment, the contention of the petitioners/tenants in terms of the 3rd proviso to Section 11(3) is not foreclosed.

Writ petition is accordingly disposed of.

Sd/-
(K.A.ABDUL GAFOOR)
JUDGE

Sd/-
(K.R.UDAYABHANU)
JUDGE

sk/

//true copy//

P.S. To Judge

K.A.ABDUL GAFOOR &
K.R.UDAYABHANU, JJ.

W.P.(C).No.31416 of 2006 M

JUDGMENT

27th November, 2006.